



**Virginia
Regulatory
Town Hall**

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Social Services
VAC Chapter Number:	22 VAC 40-730-10
Regulation Title:	Investigation of Child Abuse and Neglect in Out of Family Complaints
Action Title:	Amendment
Date:	Enter Date

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The regulations will be amended based on a comprehensive review of the investigation process for Child Protective Services (CPS) complaints regarding out of family settings. Complaints of child abuse or neglect involving caretakers in out of family settings are for the purpose of this chapter complaints in state licensed and religiously exempted child day centers, regulated family day homes, private and public schools, group residential facilities, hospitals or institutions.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Virginia Code sections 63.1-25, 63.1-248.6 and 63.1-248.7:1 provide the legal authority to amend these regulations. In the first section cited, the State Board of Social Services is -- mandated to promulgate regulations for the administration of the CPS program in Virginia. The

second citation encompasses the legal basis for all CPS activities for which the local departments of social services are authorized and responsible. The final cite provides the mandate for an advisory committee of the State Board to oversee the process for investigating CPS allegations in out of family settings.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

There are many issues with the investigation process for out of family CPS complaints. Such issues as timeliness, involvement of other professionals, coordination with other state agencies, et al. are being considered. As the review process is completed, changes could be recommended for any or all parts of the regulation. The review is occurring due to ongoing controversy about the efficacy of the current investigative process.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

This controversy over the out of family investigative process has been addressed previously by such actions as mandated training for CPS investigators, involvement of state CPS regional staff for case consultation, and monitoring of these cases by state staff, but the concerns persist. The advisory committee to the State Board of Social Services has been conducting inquiries into the issues for the past two years, and that committee has concluded that major changes may be needed.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The current regulations regarding CPS out of family investigations and any proposed changes will affect families in which the child is an alleged victim of abuse or neglect by a caretaker in a designated setting outside the home. These regulations are not intrusive into family life, and by having such a process in place, parents are strengthened in their abilities to protect their children.

These regulations are intended to protect the parents' autonomy and rights to educate, supervise, and nurture their children. These regulations would have no impact on the family's marital commitment or family income.